

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PATRICE PEYRET

Appeal No. 97-3256
Application 08/280,012¹

ON BRIEF

Before HAIRSTON, JERRY SMITH and FLEMING, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-3 and 5-15, which

¹ Application for patent filed July 25, 1994.

constitute all the claims remaining in the application.

Amendments after final rejection were filed on June 3, 1996 and July 2, 1996. Both amendments were entered by the examiner.

The claimed invention pertains to a method and apparatus for handling communications between a central broadcast facility and a plurality of remote users who are responding to questions asked by the central facility. Specifically, the invention relates to a technique for ensuring that no tampering takes place with the answers provided by the remote users.

Representative claim 1 is reproduced as follows:

1. A secured system of remote participation in interactive games, the system comprising a transmission central computer sending out cryptographic messages received by television receivers during a television program, and a games machine available to a televiewer of the television program capable of reading the cryptographic messages and of sending back the televiewer's answer to questions asked in the messages, wherein:

a) the games machine further comprises:

- means for counting consecutive periods of time including a period of time Tr_{12} defined by the instant t_1 of reception of the message and the instant t_2 of the televiewer's answer, and

a period of time Tr_{25} defined by the instant t_2 of the televiewer's answer and the instant t_5 of the forwarding of the televiewer's answer to the central computer;

- means for transmitting the televiewer's answer and the values Tr_{12} and Tr_{25} to the transmission central computer; and wherein

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b) the central computer further comprises:

- means for counting periods of time including a period of time $Ta35$ defined by the answering deadline $t3$ and by the answer forwarding instant $t5$, and

a period of time $Ta15$ defined by the instant $t1$ of transmission of the message and the answer forwarding instant $t5$,

- computation and checking means, the computation and checking means including

means for verifying the relationship (1) $Tr25 \approx Ta35$,
and

means for verifying the relationship (2) $Tr12 + Tr25 = Ta15 \pm$ tolerance values, the verifying means (2) defining means for verifying that an oscillation frequency used by the games machine counting means has not been decelerated and subsequently accelerated during the period of time $Ta15$,

and the computation and checking means rejecting the answers when the relationships (1) and (2) are not verified.

The examiner relies on the following reference:

Audebert et al. (Audebert) 5,073,931 Dec. 17, 1991

Claims 1-3 and 5-15 stand alternatively rejected under 35 U.S.C. § 102(b) as anticipated by Audebert or under 35 U.S.C. § 103 as obvious over Audebert.

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Rather than repeat the arguments of appellant or the examiner, we make reference to the brief² and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of anticipation and obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the brief along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that Audebert does not anticipate the invention nor would Audebert have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in claims 1-3 and 5-15. Accordingly, we reverse.

² A reply brief was filed by appellant on December 23, 1996 but was denied entry by the examiner [Paper #14]. Accordingly, we have not considered the reply brief in the preparation of this decision.

Audebert was cited by appellant as evidence of the background of the invention. Audebert teaches a similar system of communication between a central computer (server) and remote terminal (device 1). The critical time periods in Audebert are defined as follows:

- 1) T1 is the time at which a question is asked;
- 2) T2 is the time at which a player has entered an answer into the device 1;
- 3) T3 is the deadline for the player to answer the particular question;
- 4) T4 is the time at which the answer to the question is revealed to the player;
- 5) T5 is the time at which the server requests the answer from the player's device 1;
- 6) T'5 is the time at which the device 1 receives the request for the answer from the server (which is essentially the same as T5); and
- 7) T6 is the time at which the server enters the answers from the player;

[see column 11, line 63 to column 12, line 10]. Audebert teaches the computation of parameters $*T_{int}$ and $*T_{ref}$. The first parameter is defined as the time period $T'5 - T2$, and the second parameter is defined as $T5 - T3$ [see Figure 6]. These two values are compared to ensure that a specific relationship exists between them.

Each of independent claims 1, 6, 7 and 15 recites at least the time periods T1, T2 and T5 which correspond to the same

time periods of Audebert. Each of these independent claims recites the calculation of time periods $Tr_{12} = T_2 - T_1$ and $Tr_{25} = T_5 - T_2$ calculated at the player's device. Each of these claims also recites the calculation of time period $Ta_{15} = T_5 - T_1$ calculated at the server. Finally, each independent claim recites a means for verifying the following relationship:

$$Tr_{12} + Tr_{25} = Ta_{15} \pm \text{tolerance values.}$$

Appellant argues that Audebert does not calculate or verify any time period based on the value T_1 and, therefore, does not anticipate or teach the relationships recited in the independent claims. The examiner argues that the invention of independent claims 1, 6, 7 and 15 is clearly disclosed by Audebert or would have been obvious to the artisan in view of the teachings of Audebert. We find ourselves in agreement with appellant.

The examiner has failed to consider all the language of the claims. The examiner has determined that the system of Audebert is the same as the claimed invention because similar functions are carried out by both devices. The examiner has never addressed, however, how Audebert can meet the recitations of Tr_{12} and Ta_{15} as well as the relationship set forth in the claims when neither of these values is ever computed or acquired

in Audebert. The examiner has simply determined that a verification takes place in Audebert, but this verification is not based on the same parameters as calculated and used in the claimed invention. Since no calculated time periods in Audebert are based on the point in time designated as T1 in the claims, Audebert does not fully meet the invention as recited in independent claims 1, 6, 7 and 15. Therefore, none of the dependent claims is anticipated by Audebert either.

With respect to the rejection of the claims under 35 U.S.C. § 103, the examiner simply concludes that the claimed invention would have been obvious to the artisan in view of Audebert if Audebert does not anticipate the invention. Appellant's specification describes the claimed relationship between Tr12, Tr25 and Ta15 as detecting a type of fraud which can go undetected in Audebert. Absent appellant's disclosure of this problem with Audebert and the proposed solution, there is no suggestion on this record for calculating the time periods set forth in the claims and the relationship between them. The examiner has never addressed this particular deficiency in the Audebert teachings so that the examiner has failed to establish a prima facie case of the obviousness of the claims on appeal.

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Therefore, this record fails to support the examiner's rejection of all the claims under 35 U.S.C. § 103.

In summary, we have not sustained either of the examiner's rejections of the claims. Accordingly, the decision of the examiner rejecting claims 1-3 and 5-15 is reversed.

REVERSED

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